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**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a regulation of the European Parliament and of the Council on common rules for access to the international market for coach and bus services (recast)  
(11786/1/2008 – C6-0016/2009 – 2007/0097(COD))

Committee on Transport and Tourism

Rapporteur: Mathieu Grosch

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position for adopting a regulation of the European Parliament and of the Council on common rules for access to the international market for coach and bus services (recast)  
(11786/1/2008 – C6-0016/2009 – 2007/0097(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (11786/1/2008 – C6-0016/2009),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2007)0264),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 62 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0215/2009),
1. Approves the common position as amended;
  2. Instructs its President to forward its position to the Council and Commission.

### **Amendment 1**

**Council common position  
Recital 5 a (new)**

*Council common position*

*Amendment*

***(5a) Road side checks should be carried out without discrimination, directly or indirectly, on the grounds of nationality of the road transport operator or the country of establishment of the road transport operator or of registration of the vehicle.***

*Justification*

*Road side checks are vital for effective implementation.*

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<sup>1</sup> Texts adopted, 5.6.2008, P6\_TA(2008)0249.

## Amendment 2

### Council common position Recital 19 a (new)

*Council common position*

*Amendment*

***(19a) In order to encourage tourism and the use of an environmentally friendly means of transport, Regulation (EC) No 561/2006 should be amended so that drivers engaged in a single occasional passengers transport service with buses and coaches are allowed to postpone their weekly rest period for up to 12 consecutive 24-hour periods in case they are involved in passenger transport activities that typically do not include continuous and long driving hours. This possibility should only be allowed under very strict conditions which preserve road safety and take into account the working conditions of the drivers, inter alia the obligation to take weekly rest periods immediately before and after this service. The Commission should monitor closely the use of this possibility. If the factual situation which justifies this derogation changes substantially and the derogation results in a deterioration of road safety, the Commission should take appropriate measures.***

#### *Justification*

*The reintroduction of the 12-day rule is based on an agreement of social partners. It has a huge importance for road safety, the needs of the drivers, the operational needs of companies and it complies better with the average duration of a coach holiday and therefore benefits the passengers.*

## Amendment 3

**Council common position**  
**Article 6 – paragraph 6 – subparagraph 1**

*Council common position*

The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations.

*Amendment*

The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations. ***These additional vehicles may only be used under the same conditions as set out in the authorisation referred to in paragraph 3.***

*Justification*

*Abuse should be avoided by obliging the operator to use the additional vehicles under the same conditions as provided in paragraph 3.*

**Amendment 4**

**Council common position**  
**Article 8 – paragraph 4 – subparagraph 2**

*Council common position*

In the event that an existing international coach and bus service is seriously affecting the viability of a comparable service covered by one or more public service contracts conforming to Community law on the direct sections concerned, a Member State may, with the agreement of the Commission, suspend or withdraw the authorisation to run the international coach and bus service after having given six months' notice to the carrier.

*Amendment*

In the event that an existing international coach and bus service is seriously affecting the viability of a comparable service covered by one or more public service contracts conforming to Community law on the direct sections concerned, ***due to exceptional reasons which could not have been foreseen at the time of granting the authorisation***, a Member State may, with the agreement of the Commission, suspend or withdraw the authorisation to run the international coach and bus service after having given six months' notice to the carrier.

*Justification*

*The operators should rely on the authorisation that they receive without fear of losing it. The authority would be very inconsistent if they were given then withdrawn.*

## Amendment 5

### Council common position

#### Article 22 – paragraph 1 – subparagraph 1 – introductory wording

##### *Council common position*

In the event of a serious infringement of Community road transport legislation committed or ascertained in any Member State, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision without authorisation of parallel or temporary services, as referred to in Article 5(1), fifth subparagraph, the competent authorities of the Member State of establishment of the carrier who committed the infringement shall take appropriate action to pursue the matter which may lead, inter alia, to the imposition of the following administrative penalties:

##### *Amendment*

In the event of a serious infringement of Community road transport legislation committed or ascertained in any Member State, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision without authorisation of parallel or temporary services, as referred to in Article 5(1), fifth subparagraph, the competent authorities of the Member State of establishment of the carrier who committed the infringement shall take appropriate action ***which may include a warning if provided for by national law*** to pursue the matter which may lead, inter alia, to the imposition of the following administrative penalties:

##### *Justification*

*The Member States should warn first before they impose administrative penalties. Concerning the fact that some Member States do not have that warning mechanism it remains a strong suggestion to the Member States that provide warning mechanisms. The warning is important to keep the legislation in line with the principle of proportionality.*

## Amendment 6

### Council common position

#### Article 22 – paragraph 2 – subparagraph 1

##### *Council common position*

2. The competent authorities of the Member State of establishment shall communicate to the competent authorities of the Member State in which the infringements were ascertained, as soon as possible and at the latest within ***two months*** after their final decision on the matter, which, if any, of the penalties provided for in paragraph 1 have been

##### *Amendment*

2. The competent authorities of the Member State of establishment shall communicate to the competent authorities of the Member State in which the infringements were ascertained, as soon as possible and at the latest within ***six weeks*** after their final decision on the matter, which, if any, of the penalties provided for in paragraph 1 have been imposed.



imposed.

*Justification*

*The communication between the Member States should be as speedy as possible. It can be expected from the Member State of establishment that it delivers the information, within a month. This is not just important for the avoiding of double sanction but as well for the principle of legal certainty.*

**Amendment 7**

**Council common position**

**Article 23 – paragraph 1 – subparagraph 1 – introductory wording**

*Council common position*

Where the competent authorities of a Member State are aware of a serious infringement of this Regulation or of Community road transport legislation attributable to a non-resident carrier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the carrier's Member State of establishment, as soon as possible and at the latest within **two months** after their final decision, the following information:

*Amendment*

Where the competent authorities of a Member State are aware of a serious infringement of this Regulation or of Community road transport legislation attributable to a non-resident carrier, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the carrier's Member State of establishment, as soon as possible and at the latest within **six weeks** after their final decision, the following information:

*Justification*

*The communication between the Member States should be as speedy as possible. It can be expected from the Member State of establishment that it delivers the information, within a month. This is not just important for the avoiding of double sanction but as well for the principle of legal certainty.*

**Amendment 8**

**Council common position**

**Article 25 – paragraph 1**

*Council common position*

1. Member States may conclude bilateral and multilateral agreements on the further liberalisation of the services covered by this Regulation, in particular as regards the

*Amendment*

1. Member States may conclude bilateral and multilateral agreements on the further liberalisation of the services covered by this Regulation, in particular as regards the

authorisation system and the simplification or abolition of control documents.

authorisation system and the simplification or abolition of control documents, *especially in border regions.*

*Justification*

*Some Member States have with border regions which have intensive economic connections with each other and high level of cross border traffic. They should be able to establish rules that are less restrictive and minimize the administrative burden.*

**Amendment 9**

**Council common position**

**Article 28 a (new)**

Regulation (EC) No 561/2006

Article 8 – paragraph 6 a (new)

*Council common position*

*Amendment*

**Article 28a**

***Amendment to Regulation (EC) No 561/2006***

***In Article 8 of Regulation (EC) No 561/2006, the following paragraph shall be inserted:***

***"6a. By way of derogation from paragraph 6, a driver engaged in a single occasional service of international carriage of passengers, as defined in Regulation (EC) No .../2009 of the European Parliament and of the Council of ... on common rules for access to the international market for coach and bus services (recast) \*\*+, may postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period, provided that:***

***(a) the service lasts at least 24 consecutive hours in a Member State or a third country to which this Regulation applies other than the one in which the service started, and***

***(b) the driver takes after the use of the derogation:***

***(i) either 2 regular weekly rest periods,***

*(ii) or 1 regular weekly rest period and 1 reduced weekly rest period of at least 24 hours. However, the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the end of the derogation period, and*

*(c) after 1 January 2014, the vehicle is equipped with recording equipment in accordance with the requirements of Annex IB to Regulation (EEC) No 3821/85, and*

*(d) after 1 January 2014, in case of driving during the period from 22:00 to 06:00, the vehicle is multi-manned or the driving period referred to in Article 7 is reduced to 3 hours.*

*The Commission shall monitor closely the use made of this derogation in order to ensure that very strict conditions on road safety are preserved, in particular by checking that the total accumulated driving time during the period covered by the derogation is not excessive. At the latest three years after the entry into force of this Regulation, the Commission shall draw up a report assessing the consequences of the derogation in respect of road safety as well as social aspects. If it deems it appropriate, the Commission shall propose an amendment in this respect to this Regulation."*

*\* OL L ...*

*+ OJ: Please insert the number, date and OJ reference of the Regulation.*

### *Justification*

*The reintroduction of the 12-day rule is based on an agreement of social partners. It has a huge importance for road safety, the needs of the drivers, the operational needs of companies and it complies better with the average duration of a coach holiday and therefore benefits the passengers.*

## Amendment 10

### Council common position Article 30 – paragraph 2

#### *Council common position*

It shall apply from ...\*

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\* OJ: 2 years from the date of entry into force of this Regulation.

#### *Amendment*

It shall apply from ... \* ***with the exception of Article 28a, which shall apply six months after entry into force of this Regulation.***

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\* OJ: 2 years from the date of entry into force of this Regulation.

#### *Justification*

*The rules of this Regulation are necessary; they need to be applicable as soon as possible. The 1 January 2010 is a very realistic date, that is on the one hand not too soon and therefore gives the Member States enough time to lay down the necessary rules and on the other hand not too late.*

## **EXPLANATORY STATEMENT**

### **Introduction**

The initial intention in the Commission proposal was to simplify legislation on coach and bus services by replacing two regulations with one. Regulation (EEC) 684/92 governs access to the market for the international carriage of passengers by coach and bus while Regulation (EC) 12/98 lays down the conditions for non-resident carriers to operate services within a Member State.

Examination of the operation of the two Regulations and comments from stakeholders suggested that adopting one common set of rules for both areas in a recast Regulation would help clarity and reduce bureaucracy. The Commission's draft Regulation specifically clarified the scope of the legislation which would apply to all international carriage; introduced new provisions to standardize the Community licence; streamlined procedures for the authorisation of internal services; and left the cabotage provisions of the existing legislation largely unchanged.

### **Parliament's First Reading**

Parliament welcomed the proposed Regulation and accepted its premise on the need for greater simplification and clarity. There were however a number of areas where Parliament adopted amendments to strengthen, as opposed to modify radically, the Commission's proposal. Where regular short distance cross border services were concerned Member States should have the option of not applying the authorising procedure. Parliament sought to include an amendment to make the performance of cabotage operations subject to Directive 96/71/EC on the posting of workers. The possibility of safeguard measures in the event of serious disturbance of the national transport market was also foreseen in a Parliamentary amendment.

Above all Parliament considered that the difficult question of the postponement of rest periods for drivers engaged in occasional international transport ought to be addressed and resolved by a derogation provision in the Regulation. The corresponding amendment proposed by Parliament reflected accurately the agreed position of the social partners at that point.

### **Council's Common Position**

The Council accepted 10 of the Parliament's 31 amendments, in some instances with improved wording. It should be noted here that the period of time between the Parliament's First Reading and the political agreement in Council was relatively short at eight days. As the political agreement is very largely reflected in the Council's Common Position there are grounds to suppose that there is scope for further consideration of the proposal on the Council side.

There remain important areas of difference which your rapporteur wishes to address. These concern short distance cross border services and allowing Member States to exempt them. Nor indeed has Council responded positively to the need to cover events which seriously

disrupt national transport markets.

Finally, but very importantly, Council has made no progress on postponing rest periods for drivers on occasional international services (12 day rule). This is a key issue which needs to be resolved.

### **Your Rapporteur's Proposal**

Your rapporteur takes the view, following discussions between Council, Commission, rapporteur and shadow rapporteurs, that Council might come to see the need for progress on those areas which remain unsatisfactory. He considers that Council might indicate, if not acceptance verbatim of Parliament's First Reading amendments, at least amendments which satisfactorily deal with the major outstanding issues.

He proposes therefore to accept Council's Common position where in substance it reflects Parliament's view but to amend it to reflect Parliament's position on

- services in border regions,
- more efficient cooperation and speedier transmission of information between Member States,
- date of application of the Regulation,
- postponement of rest periods (12 day rule).

It is possible that a comprehensive agreement can be reached on all essential points before adoption of parliament's Second Reading and your rapporteur is committed to working in this direction in conjunction with the shadow rapporteurs.



## PROCEDURE

<b>Title</b>	Acces to the market for transport services by coach and bus (recast version)
<b>References</b>	11786/1/2008 – C6-0016/2009 – 2007/0097(COD)
<b>Date of Parliament's first reading – P number</b>	5.6.2008                      T6-0249/2008
<b>Commission proposal</b>	COM(2007)0264 - C6-0147/2007
<b>Date receipt of common position announced in plenary</b>	15.1.2009
<b>Committee responsible</b> Date announced in plenary	TRAN 15.1.2009
<b>Rapporteur(s)</b> Date appointed	Mathieu Grosch 19.1.2009
<b>Discussed in committee</b>	16.2.2009                      16.3.2009
<b>Date adopted</b>	31.3.2009
<b>Result of final vote</b>	+:                      32 -:                      0 0:                      2
<b>Members present for the final vote</b>	Gabriele Albertini, Paolo Costa, Michael Cramer, Luis de Grandes Pascual, Arūnas Degutis, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Francesco Ferrari, Mathieu Grosch, Georg Jarzembowski, Stanisław Jałowiecki, Timothy Kirkhope, Rodi Kratsa-Tsagaropoulou, Sepp Kusstatscher, Jörg Leichtfried, Eva Lichtenberger, Marian-Jean Marinescu, Erik Meijer, Seán Ó Neachtain, Reinhard Rack, Ulrike Rodust, Gilles Savary, Brian Simpson, Dirk Sterckx, Ulrich Stockmann, Michel Teychenné, Silvia-Adriana Țicău, Yannick Vaugrenard, Armando Veneto
<b>Substitute(s) present for the final vote</b>	Philip Bradbourn, Jeanine Hennis-Plasschaert, Anne E. Jensen
<b>Date tabled</b>	2.4.2009